

AMENDED IN SENATE JUNE 23, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1520

Introduced by Committee on Judiciary (Assembly Members ~~Mark Stone~~ Mark Stone (Chair), Alejo, Chau, Chiu, Cristina Garcia, Holden, and O'Donnell)

March 10, 2015

An act to amend Section ~~51.7 of the Civil Code, and to repeal Section 1 of Chapter 1293 of the Statutes of 1976, relating to civil rights. 6254.16 of the Government Code, relating to public records.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1520, as amended, Committee on Judiciary. ~~Civil rights. Public Records.~~

The California Public Records Act requires that public records, as defined, be open to inspection at all times during the office hours of the state or local agency and that every person has a right to inspect any public record, with specified exceptions. Existing law provides that the act shall not be construed to require the disclosure of specified information concerning utility customers of local agencies, except for certain purposes.

This bill would, instead, provide that the act shall not be construed to require the disclosure of specified information concerning residential utility customers of local agencies. By increasing the duties of local officials, the bill would impose a state-mandated local program.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or

open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~The Ralph Civil Rights Act of 1976 provides, in part, that all persons within the jurisdiction of this state have the right to be free from any violence, or intimidation by threat of violence, on account of their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, or sexual orientation.~~

~~This bill would repeal the provision entitling the Ralph Civil Rights Act of 1976, and would instead state the findings of the Legislature that the above-described provision was enacted as part of the Ralph Civil Rights Act of 1976.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 6254.16 of the Government Code is
- 2 amended to read:
- 3 6254.16. Nothing in this chapter shall be construed to require
- 4 the disclosure of the ~~name, names, credit history, histories,~~ utility
- 5 usage data, home ~~address, addresses,~~ or telephone ~~number numbers~~
- 6 of *residential* utility customers of local agencies, except that
- 7 disclosure of ~~name, the names,~~ utility usage data, and ~~the home~~
- 8 ~~address addresses~~ of *residential* utility customers of local agencies
- 9 shall be made available upon request as follows:
- 10 (a) To an agent or authorized family member of the person to
- 11 whom the information pertains.
- 12 (b) To an officer or employee of another governmental agency
- 13 when necessary for the performance of its official duties.
- 14 (c) Upon court order or the request of a law enforcement agency
- 15 relative to an ongoing investigation.
- 16 (d) Upon determination by the local agency that the *residential*
- 17 utility customer who is the subject of the request has used utility

1 services in a manner inconsistent with applicable local utility usage
2 policies.

3 (e) Upon determination by the local agency that the *residential*
4 utility customer who is the subject of the request is an elected or
5 appointed official with authority to determine the utility usage
6 policies of the local agency, provided that the home address of an
7 appointed official shall not be disclosed without his or her consent.

8 (f) Upon determination by the local agency that the public
9 interest in disclosure of the information clearly outweighs the
10 public interest in nondisclosure.

11 *SEC. 2. The Legislature finds and declares that Section 1 of*
12 *this act, which amends Section 6254.16 of the Government Code,*
13 *further, within the meaning of paragraph (7) of subdivision (b)*
14 *of Section 3 of Article I of the California Constitution, the purposes*
15 *of that constitutional section as it relates to the right of public*
16 *access to the meetings of local public bodies or the writings of*
17 *local public officials and local agencies. Pursuant to paragraph*
18 *(7) of subdivision (b) of Section 3 of Article I of the California*
19 *Constitution, the Legislature makes the following findings:*

20 *In light of recurrent shortages of water and energy in California*
21 *and the prospect that climate change will likely increase the*
22 *intensity and frequency of these shortages, the Legislature finds*
23 *that it is in the public's interest to know that industrial,*
24 *institutional, and commercial water and energy users are*
25 *responsibly meeting conservation goals. Moreover, unlike*
26 *residential utility users, the privacy interests of industrial,*
27 *institutional, and commercial users are not sufficient to justify*
28 *granting an exemption from the public disclosure requirements,*
29 *in this context.*

30 *SEC. 3. No reimbursement is required by this act pursuant to*
31 *Section 6 of Article XIII B of the California Constitution because*
32 *the only costs that may be incurred by a local agency or school*
33 *district under this act would result from a legislative mandate that*
34 *is within the scope of paragraph (7) of subdivision (b) of Section*
35 *3 of Article I of the California Constitution.*

36 ~~SECTION 1. Section 51.7 of the Civil Code is amended to~~
37 ~~read:~~

38 ~~51.7. (a) All persons within the jurisdiction of this state have~~
39 ~~the right to be free from any violence, or intimidation by threat of~~
40 ~~violence, committed against their persons or property because of~~

1 political affiliation, or on account of any characteristic listed or
2 defined in subdivision (b) or (c) of Section 51, or position in a
3 labor dispute, or because another person perceives them to have
4 one or more of those characteristics. The identification in this
5 subdivision of particular bases of discrimination is illustrative
6 rather than restrictive.

7 (b) (1) A person shall not require another person to waive any
8 legal right, penalty, remedy, forum, or procedure for a violation
9 of this section, as a condition of entering into a contract for goods
10 or services, including the right to file and pursue a civil action or
11 complaint with, or otherwise notify, the Attorney General or any
12 other public prosecutor, or law enforcement agency, the
13 Department of Fair Employment and Housing, or any court or
14 other governmental entity.

15 (2) A person shall not refuse to enter into a contract with, or
16 refuse to provide goods or services to, another person on the basis
17 that the other person refuses to waive any legal right, penalty,
18 remedy, forum, or procedure for a violation of this section,
19 including the right to file and pursue a civil action or complaint
20 with, or otherwise notify, the Attorney General or any other public
21 prosecutor, or law enforcement agency, the Department of Fair
22 Employment and Housing, or any other governmental entity.

23 (3) Any waiver of any legal right, penalty, remedy, forum, or
24 procedure for a violation of this section, including the right to file
25 and pursue a civil action or complaint with, or otherwise notify,
26 the Attorney General or any other public prosecutor, or law
27 enforcement agency, the Department of Fair Employment and
28 Housing, or any other governmental entity shall be knowing and
29 voluntary, in writing, and expressly not made as a condition of
30 entering into a contract for goods or services or as a condition of
31 providing or receiving goods and services.

32 (4) Any waiver of any legal right, penalty, remedy, forum, or
33 procedure for a violation of this section that is required as a
34 condition of entering into a contract for goods or services shall be
35 deemed involuntary, unconscionable, against public policy, and
36 unenforceable. Nothing in this subdivision shall affect the
37 enforceability or validity of any other provision of the contract.

38 (5) Any person who seeks to enforce a waiver of any legal right,
39 penalty, remedy, forum, or procedure for a violation of this section
40 shall have the burden of proving that the waiver was knowing and

1 ~~voluntary and not made as a condition of the contract or of~~
2 ~~providing or receiving the goods or services.~~

3 ~~(6) The exercise of a person's right to refuse to waive any legal~~
4 ~~right, penalty, remedy, forum, or procedure for a violation of this~~
5 ~~section, including a rejection of a contract requiring a waiver, shall~~
6 ~~not affect any otherwise legal terms of a contract or an agreement.~~

7 ~~(7) This subdivision shall not apply to any agreement to waive~~
8 ~~any legal rights, penalties, remedies, forums, or procedures for a~~
9 ~~violation of this section after a legal claim has arisen.~~

10 ~~(8) This subdivision shall apply to any agreement to waive any~~
11 ~~legal right, penalty, remedy, forum, or procedure for a violation~~
12 ~~of this section, including an agreement to accept private arbitration,~~
13 ~~entered into, altered, modified, renewed, or extended on or after~~
14 ~~January 1, 2015.~~

15 ~~(e) This section does not apply to statements concerning~~
16 ~~positions in a labor dispute that are made during otherwise lawful~~
17 ~~labor picketing.~~

18 ~~(d) The Legislature finds and declares that this section was~~
19 ~~enacted as part of the Ralph Civil Rights Act of 1976, in Chapter~~
20 ~~1293 of the Statutes of 1976.~~

21 ~~(e) Nothing in this section shall be construed to negate or~~
22 ~~otherwise abrogate the provisions of Sections 1668, 1953, and~~
23 ~~3513.~~

24 ~~SEC. 2. Section 1 of Chapter 1293 of the Statutes of 1976 is~~
25 ~~repealed.~~